

BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

DAVID JOHN LIGHTFOOT
675 West Foothill Boulevard, Suite 300
Claremont, CA 91711
Certified Public Accountant Certificate No.
63828

Respondent.

Case No. AC-2012-40

OAH No. 2012070858

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on March 3, 2013.
It is so ORDERED February 1, 2013.

Tesh J. LaManna
FOR THE CALIFORNIA BOARD OF
ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 WILLIAM D. GARDNER
Deputy Attorney General
4 State Bar No. 244817
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2114
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Attorneys for Complainant

7
8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2012-40

12 **DAVID JOHN LIGHTFOOT**
13 **675 West Foothill Boulevard, Suite 300**
Claremont, CA 91711
14 **Certified Public Accountant Certificate No.**
63828

OAH No. 2012070858
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Patti Bowers (Complainant) is the Executive Officer of the California Board of
21 Accountancy. She brought this action solely in her official capacity and is represented in this
22 matter by Kamala D. Harris, Attorney General of the State of California, by William D. Gardner,
23 Deputy Attorney General.

24 2. Respondent David John Lightfoot (Respondent) is represented in this proceeding by
25 attorney Stephanie Sessions Perkins, whose address is: Chapman, Glucksman, Dean, Roeb &
26 Barger, 11900 W. Olympic Boulevard Suite 800, Los Angeles, California 90064.

27 3. On or about February 12, 1993, the California Board of Accountancy issued Certified
28 Public Accountant Certificate No. 63828 to David John Lightfoot (Respondent). The Certified

1 Public Accountant Certificate was in full force and effect at all times relevant to the charges
2 brought in Accusation No. AC-2012-40 and will expire on February 28, 2013, unless renewed.

3 JURISDICTION

4 4. Accusation No. AC-2012-40 was filed before the California Board of Accountancy
5 (CBA), Department of Consumer Affairs, and is currently pending against Respondent. The
6 Accusation and all other statutorily required documents were properly served on Respondent on
7 June 5, 2012. Respondent timely filed his Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. AC-2012-40 is attached as exhibit A and incorporated
9 herein by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. AC-2012-40. Respondent has also carefully read, fully
13 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
14 Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
17 his own expense; the right to confront and cross-examine the witnesses against him; the right to
18 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
19 the attendance of witnesses and the production of documents; the right to reconsideration and
20 court review of an adverse decision; and all other rights accorded by the California
21 Administrative Procedure Act and other applicable laws.

22 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 CULPABILITY

25 9. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. AC-2012-40.

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10. Respondent agrees that his Certified Public Accountant Certificate is subject to discipline subject to discipline and he agrees to be bound by the CBA's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. This stipulation shall be subject to approval by the California Board of Accountancy. Respondent understands and agrees that counsel for Complainant and the staff of the California Board of Accountancy may communicate directly with the CBA regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the CBA considers and acts upon it. If the CBA fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the CBA shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the CBA may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. 63828 issued to Respondent David John Lightfoot (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Obey All Laws/Rules.** Respondent shall obey all federal, state and local laws, and all rules relating to the practice of public accountancy in California.

2. **Cost Reimbursement.** Respondent shall reimburse the CBA \$8,550.40 for costs incurred in its investigation and prosecution of this matter. Payment shall be made as follows: quarterly payments of \$1,068.80 shall be due and submitted to the Board in conjunction with the required quarterly written reports, with the final payment being due one (1) year before probation is scheduled to terminate.

3. **Submit Written Reports.** Respondent shall submit, within ten (10) days of completion of the quarter, written reports to the CBA on a form obtained from the CBA. The Respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to Respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the CBA or its representatives.

4. **Personal Appearances.** Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by the CBA or its designated representatives, provided such notification is accomplished in a timely manner.

5. **Comply With Probation.** Respondent shall fully comply with the terms and conditions of the probation imposed by the CBA and shall cooperate fully with representatives of the Board of Accountancy in its monitoring and investigation of the Respondent's compliance with probation terms and conditions.

6. **Practice Investigation.** Respondent shall be subject to, and shall permit, practice investigation of the Respondent's professional practice. Such a practice investigation shall be

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1 conducted by representatives of the CBA, provided notification of such review is accomplished in
2 a timely manner.

3 7. **Comply With Citations.** Respondent shall comply with all final orders resulting
4 from citations issued by the Board of Accountancy.

5 8. **Tolling of Probation for Out-of-State Residence/Practice.** In the event
6 Respondent should leave California to reside or practice outside this state, Respondent must
7 notify the CBA in writing of the dates of departure and return. Periods of non-California
8 residency or practice outside the state shall not apply to reduction of the probationary period, or
9 of any suspension. No obligation imposed herein, including requirements to file written reports,
10 reimburse the CBA costs, or make restitution to consumers, shall be suspended or otherwise
11 affected by such periods of out-of-state residency or practice except at the written direction of the
12 CBA.

13 9. **Violation of Probation.** If Respondent violates probation in any respect, the CBA,
14 after giving Respondent notice and an opportunity to be heard, may revoke probation and carry
15 out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is
16 filed against Respondent during probation, the CBA shall have continuing jurisdiction until the
17 matter is final, and the period of probation shall be extended until the matter is final.

18 10. **Completion of Probation.** Upon successful completion of probation, Respondent's
19 license will be fully restored.

20 11. **Ethics Continuing Education.** Respondent shall complete four (4) hours of
21 continuing education in course subject matter pertaining to the following: a review of nationally
22 recognized codes of conduct emphasizing how the codes relate to professional responsibilities;
23 case-based instruction focusing on real-life situational learning; ethical dilemmas facing the
24 accounting profession; or business ethics, ethical sensitivity, and consumer expectations (within a
25 given period of time or prior to resumption of practice). Courses must be a minimum of one hour
26 as described in California Code of Regulations Section 88.2, (Courses will be passed prior to
27 resumption of practice where license has been suspended or where otherwise appropriate.)

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1 If respondent fails to complete said courses within the time period provided, respondent
2 shall so notify the CBA and shall cease practice until respondent completes said courses, has
3 submitted proof of same to the CBA, and has been notified by the CBA that he or she may
4 resume practice. Failure to complete the required courses no later than 100 days prior to the
5 termination of probation shall constitute a violation of probation.

6 12. **Active License Status.** Respondent shall at all times maintain an active license status
7 with the CBA, including during any period of suspension. If the license is expired at the time the
8 CBA's decision becomes effective, the license must be renewed within 30 days of the effective
9 date of the decision.

10 ACCEPTANCE

11 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
12 discussed it with my attorney, Stephanie Sessions Perkins. I understand the stipulation and the
13 effect it will have on my Certified Public Accountant Certificate. I enter into this Stipulated
14 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
15 bound by the Decision and Order of the California Board of Accountancy.

16
17 DATED: 12/13/12

David J. Lightfoot
DAVID JOHN LIGHTFOOT
Respondent

19 I have read and fully discussed with Respondent David John Lightfoot the terms and
20 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
21 I approve its form and content.

22 DATED: 12.18.12

Stephanie Sessions Perkins
Stephanie Sessions Perkins
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Accountancy of the Department of Consumer Affairs.

Dated: 12/18/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
KAREN B. CHAPPELLE
Supervising Deputy Attorney General



WILLIAM D. GARDNER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. AC-2012-40

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 WILLIAM D. GARDNER
Deputy Attorney General
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13 **Claremont, CA 91711**

14 **Certified Public Accountant Certificate No.**
63828

15 **and**

16 **LIGHTFOOT, RALLS & LIGHTFOOT,**
17 **C.P.A.'s, LLP**
18 **675 West Foothill Boulevard, Suite 300**
Claremont, CA 91711

19 **Certified Public Accountancy Partnership**
Certificate No. PAR 5691,

20
21 Respondents.
22

Case No. AC-2012-40

A C C U S A T I O N

23 Complainant alleges:

24 **PARTIES**

25 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as
26 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.

27 2. On or about February 12, 1993, the California Board of Accountancy issued Certified
28 Public Accountant Certificate Number 63828 to David John Lightfoot (Respondent Lightfoot).

1 The Certified Public Accountant Certificate was in full force and effect at all times relevant to the
2 charges brought herein and will expire on February 28, 2013, unless renewed.

3 3. On or about April 23, 1992, the California Board of Accountancy issued Certified
4 Public Accountancy Partnership Certificate Number PAR 5691 to Lightfoot, Ralls & Lightfoot
5 C.P.A.'s (Respondent Firm). The Certified Public Accountancy Partnership Certificate was in
6 full force and effect at all times relevant to the charges brought herein and will expire on April 30,
7 2014, unless renewed.

8 JURISDICTION

9 4. This Accusation is brought before the California Board of Accountancy (CBA),
10 Department of Consumer Affairs, under the authority of the following laws. All section
11 references are to the Business and Professions Code unless otherwise indicated.

12 5. Section 5109 provides:

13 "The expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or
14 other authority to practice public accountancy by operation of law or by order or decision of the
15 board or a court of law, the placement of a license on a retired status, or the voluntary surrender
16 of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with
17 any investigation of or action or disciplinary proceeding against the licensee, or to render a
18 decision suspending or revoking the license."

19 6. Section 5100 states:

20 "After notice and hearing the board may revoke, suspend, or refuse to renew any permit or
21 certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing
22 with Section 5080), or may censure the holder of that permit or certificate for unprofessional
23 conduct that includes, but is not limited to, one or any combination of the following causes:

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25 "(g) Willful violation of this chapter or any rule or regulation promulgated by the board
26 under the authority granted under this chapter.

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1 7. Section 5101 states:

2 "After notice and hearing the board shall revoke the registration and permit to practice of a
3 partnership if at any time it does not have all the qualifications prescribed by the section of this
4 chapter under which it qualified for registration. After notice and hearing the board may revoke,
5 suspend or refuse to renew the permit to practice of a partnership or may censure the holder of
6 such permit for any of the causes enumerated in Section 5100 and for the following additional
7 causes:

8 (a) The revocation or suspension of the certificate or registration or the revocation or
9 suspension of or refusal to renew the permit to practice of any partner.

10 (b) The cancellation, revocation or suspension of certificate or other authority to practice or
11 refusal to renew the certificate or other authority of the partnership of any partner thereof to
12 practice public accountancy in any other state."

13 8. Section 5061 states:

14 "(a) Except as expressly permitted by this section, a person engaged in the practice of
15 public accountancy shall not:

16 (1) pay a fee or commission to obtain a client or (2) accept a fee or commission for
17 referring a client to the products or services of a third party.

18 "(b) A person engaged in the practice of public accountancy who is not performing any of
19 the services set forth in subdivision (c) and who complies with the disclosure requirements of
20 subdivision (d) may accept a fee or commission for providing a client with the products or
21 services of a third party where the products or services of a third party are provided in
22 conjunction with professional services provided to the client by the person engaged in the practice
23 of public accountancy. Nothing in this subdivision shall be construed to permit the solicitation or
24 acceptance of any fee or commission solely for the referral of a client to a third party.

25 "(c) A person engaged in the practice of public accountancy is prohibited from performing
26 services for a client . . . for a commission or from receiving a commission from a third party for
27 providing the products or services of that third party to a client . . . during the period in which the

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1 person also performs for that client . . . any of the services listed below and during the period
2 covered by any historical financial statements involved in those listed services:

3 (1) An audit or review of a financial statement.

4 (2) A compilation of a financial statement when that person expects, or reasonably might
5 expect, that a third party will use the financial statement and the compilation report does not
6 disclose a lack of independence.

7 (3) An examination of prospective financial information.

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9 "(d) A person engaged in the practice of public accountancy who is not prohibited from
10 performing services for a commission, or from receiving a commission, and who is paid or
11 expects to be paid a commission, shall disclose that fact to any client or entity to whom the person
12 engaged in the practice of public accountancy recommends or refers a product or service to which
13 the commission relates.

14 "(e) The board shall adopt regulations to implement, interpret, and make specific the
15 provisions of this section including, but not limited to, regulations specifying the terms of any
16 disclosure required by subdivision (d), the manner in which the disclosure shall be made, and
17 other matters regarding the disclosure that the board deems appropriate. These regulations shall
18 require, at a minimum, that a disclosure shall comply with all of the following:

19 (1) Be in writing and be clear and conspicuous.

20 (2) Be signed by the recipient of the product or service.

21 (3) State the amount of the commission or the basis on which it will be computed.

22 (4) Identify the source of the payment and the relationship between the source of the
23 payment and the person receiving the payment.

24 (5) Be presented to the client at or prior to the time the recommendation of the product or
25 service is made.

26 "(f) For purposes of this section, fee includes, but is not limited to, a commission, rebate,
27 preference, discount, or other consideration, whether in the form of money or otherwise.

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1 9. California Code of Regulations, title 16, section 56, states:

2 “(a) A licensee shall not accept any fee or commission permitted by Business and
3 Professions Code Section 5061 unless he or she complies with the provisions of this section and
4 Section 56.1

5 “(b) A licensee who may receive a fee or commission pursuant to Business and Professions
6 Code Section 5061 shall furnish to the client, at or prior to the time the recommendation of the
7 product or service is made, a written disclosure statement in 12 point type or larger that contains
8 the following information:

9 (1) The fact that the fee or commission is to be paid for professional services and that a fee
10 or commission cannot be accepted solely for the referral of the client to the products or services
11 of a third party.

12 (2) A description of the product(s) or service(s) which the licensee is recommending to the
13 client, the identity of the third party that is expected to provide the product or service, the
14 business relationship of the licensee to the third party, a description of any fee or commission
15 which may be received by the licensee, including, but not limited to, any supplemental fee or
16 commission or other compensation allocable to the client being provided with the product or
17 service of the third party. Where the product(s) or service(s) cannot be specifically identified at
18 the time of the initial disclosure, this information shall be included in a supplemental disclosure
19 within 30 days of receipt of the fee or commission.

20 “(3) The dollar amount or value of the fee or commission payment(s) or the basis on which
21 the payment(s) shall be computed.

22 (c) The written disclosure shall be on letterhead of the licensed firm or shall be signed by
23 the licensee. The disclosure statement shall be signed and dated by the client and contain an
24 acknowledgment by the client that the client has read and understands the information contained
25 in the disclosure. Supplemental disclosures as described in subsection (b)(2) of Section 56 need
26 not be signed by the client or by the licensee. The licensee shall retain the disclosure statements
27 for a period of five years and shall provide copies to the client.”

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Failure to Disclose Commission)**

3 12. Respondents are subject to disciplinary action under section 5100, subdivision (g), in
4 conjunction with section 5101 and section 5061 and California Code of Regulations, title 16,
5 section 56, in that Respondent Lightfoot willfully violated Division 3, Chapter 1, of the Business
6 and Professions Code and regulations enacted thereunder by providing products and/or services to
7 a client for a commission without disclosing the commission to the client as required by law.
8 Complainant refers to, and by this reference incorporates, the allegations set forth above in
9 paragraph 11, inclusive, as though set forth fully herein.

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the California Board of Accountancy issue a decision:

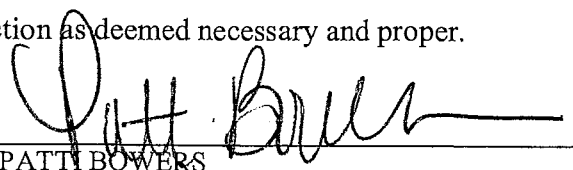
13 1. Revoking or suspending or otherwise imposing discipline upon Certified Public
14 Accountant Certificate Number 63828, issued to David John Lightfoot;

15 2. Revoking or suspending or otherwise imposing discipline upon Certified Public
16 Accountancy Partnership Certificate Number PAR 5691 issued to Lightfoot, Ralls & Lightfoot
17 C.P.A.'s. ;

18 3. Ordering Respondents, jointly and severally, to pay the California Board of
19 Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to
20 Business and Professions Code section 5107;

21 4. Taking such other and further action as deemed necessary and proper.

22 DATED: May 29, 2012

23 
24 PATTI BOWERS
25 Executive Officer
26 California Board of Accountancy
27 Department of Consumer Affairs
28 State of California
Complainant

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